

**FILED**

**AUG 28 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

HARJINDER SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-76070

Agency No. A74-397-593

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted August 21, 2006<sup>\*\*</sup>

Before: GOODWIN, REINHARDT, and BEA, Circuit Judges.

Harjinder Singh, a native and citizen of India, petitions for review of a summary order of the Board of Immigration Appeals upholding an Immigration

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Judge's ("IJ") denial of his application for asylum, withholding of deportation, and relief under the Convention Against Torture ("CAT").

Reviewing for substantial evidence, *Ochave v. INS*, 254 F.3d 859, 861-62 (9th Cir. 2001), we deny the petition for review.

Even assuming credibility, substantial evidence supports the IJ's finding that Singh's own testimony that he lived safely in another part of India for over one year rebutted his fear of future persecution. *See id.* at 867-68 (holding that petitioner did not have a well-founded fear of future persecution because she relocated to another city, incident-free, for nearly one year); *see also* 8 C.F.R. § 208.13(b)(2)(ii).

Because Singh failed to establish that he was eligible for asylum, he necessarily failed to establish eligibility for withholding of deportation. *See Cruz-Navarro v. INS*, 232 F.3d 1024, 1031 (9th Cir. 2000).

We lack jurisdiction to consider Singh's challenge to the denial of CAT relief because he failed to exhaust it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED.**